

E-Filed: April 2, 2015

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

11 SANDRA LEE JACOBSON,

No. C14-00735 LHK (HRL)

12 Plaintiff,

**ORDER RE: DISCOVERY DISPUTE
JOINT REPORT #2**

v.

13 PERSOLVE, LLC, D/B/A ACCOUNT
14 RESOLUTION ASSOCIATES; et al.,**[Re: Docket No. 86]**

15 Defendants.

16 Sandra Lee Jacobson sues Persolve, LLC (“Persolve”) and Stride Card, LLC (“Stride Card”)
17 for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* and the Rosenthal
18 Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.* Stride Card is engaged in the
19 business of collecting defaulted consumer debts in California. Plaintiff alleges that Persolve, a
20 third-party debt collector, sent a collection letter on behalf of Stride Card that does not state or
21 disclose the name of the creditor to whom the debt is owed in violation of 15 U.S.C. § 1692g(a)(2)
22 and Cal. Civ. Code § 1788.17. Plaintiff asserts that because Stride Card both engaged Persolve to
23 collect defaulted consumer debts on its behalf and directed the alleged unlawful activities, Stride
24 Card is liable for the acts of Persolve.

25 In Discovery Dispute Joint Report #2, Plaintiff seeks documents relating to Stride Card’s net
26 worth, for the purposes of filing a motion for class certification and determining potential damages.¹
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28 ¹ In a class action, a debt collector is liable to the class in “(i) such amount for each named plaintiff
as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all

1 Plaintiff contends that the documents and information that Stride Card has produced do not properly
2 disclose its net worth.

3 According to Plaintiff, information and documents obtained from Stride Card show that over
4 the past several years, Stride Card has made substantial payments to numerous, possibly-related
5 entities: Llanfare Partners, LLC; Collection Licensing, LLC; Nicholas Machol; Chris Hines; Eide
6 Bailly, LLP; EideBailly; Surety Solutions; Fitzgerald Debt Acquisitions, LLC; Kingston Financial;
7 SC1-80, LLC (“SC1-80”); SC1-20, LLC (“SC1-20”); C&E Acquisition; Liberty Acquisitions II,
8 LLC; Harvest Strategy Group; International Credit Services, LLC; Poulton Associates, Inc.; Active
9 Collection Agency; and Machol & Johannes, LLC. Plaintiff asserts that Stride Card is concealing
10 its true net worth by shifting funds through affiliated subsidiaries and/or LLCs as well as managing
11 partners. Plaintiff requests that the Court order Stride Card to produce the agreements, contracts, or
12 other written evidence that show the reason and amount for each of Stride Card’s obligations to
13 these entities for the last three years.

14 In addition, Plaintiff asserts that corporate formation documents obtained from Stride Card
15 show that Stride Card was created for the benefit of two subsidiaries: SC1-20 and SC1-80. Plaintiff
16 requests production of the “SC1 Participation Agreement” that created these affiliates, arguing that
17 it will show the extent to which SC1-20 and SC1-80 invested in Stride Card and the initial
18 contribution of each, as well as the monthly payments each is entitled to receive.

19 Plaintiff makes these requests based on the theory that alter-ego, under-capitalization and
20 other veil-piercing theories may be available to her. Although Plaintiff’s proposed second amended
21 complaint alleges alter-ego theories, Plaintiff’s first amended complaint (the operative complaint)
22 does not. Absent good cause, parties are not entitled to discovery to develop new claims or defenses
23 that are not identified in the pleadings. *In re REMEC, Inc. Sec. Litig.*, No. 04-CV-1948 JLS (AJB),
24 2008 WL 2282647, at *2 (S.D. Cal. May 30, 2008) (citing Fed. R. Civ. P. 26(b)(1)). Here, Plaintiff
25 has not demonstrated good cause to conduct such discovery. Discovery related to alter ego claims is
26 therefore irrelevant at this point in time. *See, e.g., Martinez v. Manheim Central Cal.*, No. 10-CV-
27 1511, 2011 WL 1466684, at *5 (E.D. Cal. Apr. 18, 2011); *Anchondo v. Anderson, Crenshaw, &*

28 other class members, without regard to a minimum individual recovery, not to exceed the lesser of
\$500,000 or 1 per centum of the net worth of the debt collector.” 15 U.S.C. § 1692k(a)(2)(B).

1 Assocs., *L.L.C.*, 256 F.R.D. 661, 669 (D.N.M. 2009). Accordingly, Plaintiff's requests are denied.
2 Plaintiff may bring these requests again in the event that Judge Lucy Koh grants Plaintiff's pending
3 motion for leave to file a second amended class action complaint.

4 **IT IS SO ORDERED.**

5 Dated: April 2, 2015

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7 HOWARD R. LLOYD
8 UNITED STATES MAGISTRATE JUDGE
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9 **Counsel are responsible for distributing copies of this document to co-counsel who have not
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